

TESTIMONY OF
NEAL A. McCALEB
ASSISTANT SECRETARY - INDIAN AFFAIRS
U.S. DEPARTMENT OF THE INTERIOR
ON
S. 343, THE “INDIAN TRIBAL DEVELOPMENT CONSOLIDATED FUNDING ACT”
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
U.S. SENATE

MAY 8, 2002

Good Morning, Mr. Chairman and Members of the Committee. Thank you for the opportunity to appear before you today to present the views of the Department regarding S. 343, a bill to establish a demonstration project to authorize the integration and coordination of Federal funding dedicated to community, business and economic development of Native American communities.

The Administration supports the goals of S. 343 to integrate and coordinate Federal funding dedicated to promoting economic development for Indian communities. The Administration, however, is still reviewing the legislation and has already identified a number of significant concerns with the bill, which we look forward to working with the Committee to address.

The Bureau of Indian Affairs is working with the Bureau of Indian Affairs' Tribal Budget Advisory Committee's Subcommittee on Economic Development to develop strategies to improve reservation economies. These strategies include actions the BIA and Federal agencies can take to be more effective in encouraging economic development for American Indian tribes. Integrating Federal economic development programs is one the Tribal Advisory Committee's priorities.

S. 343 is intended to encourage more efficient use of Federal funds in the area of economic development. Once a tribe submits a plan which is approved by the Department, it is able to pool federal funds they receive for economic and community development. These funds are disbursed to the tribe from one office and they submit one annual audit and report to the same office regarding its expenditures. This allows the tribe to be more flexible in its use of the funds, and more efficient because it reduces the amount paperwork, without reducing accountability.

S. 343 is based on an existing program authorized under Public Law 102-477, and which has enjoyed tremendous success. Public Law 102-477 allows tribes to consolidate and integrate employment education and training programs. The program indicates that 89% of Indian participants in the program have reached their education and employment goals.

Based on our experiences with Public Law 102-477, the integration of Federal programs initiative, we offer the following comments regarding S. 343:

1. Part of the success of our current program hinges on our ability to act as the lead agency. The administrative burden, and costs, are increased if tribes must go to every federal agency independently. The process should be streamlined, allowing all tribal grant applications to be funneled through one agency. However, the bill must be revised to ensure that individual programs will be included in demonstrations only with the concurrence of the head of the Federal agency responsible for administration of those programs. The bill should be structured so as to allow the Secretary to enter into a memorandum of agreement with any other agency that provides assistance to Tribes, as defined by the bill, as to which programs will be included in the demonstration project. Both the Secretary and the involved agencies should be required to consult with Tribes prior to finalizing any MOA. Tribes would then come to Interior and request inclusion of any of those programs in their overall consolidated grant. This would lead to more effective coordination and would reduce burdens on and confusion for tribes. Section 4 of the bill should clarify that tribes seek approval/disapproval, and implementation and related tasks, through the Department, rather than requiring tribes to work with each agency separately.
2. We recommend that any project evaluations be coordinated rather than each Federal agency conducting separate reviews. Tribes are often overwhelmed by numerous duplicative review and analysis of project operations. One coordinated consolidated review will reduce burdens on the tribes.
3. We recommend that competitive economic development grant programs be implemented similar to formula funded grants for this project once an award has been made under this grant.
4. It has been our experience that consultation by an agency before implementation of the Public Law 102-477 program has minimized problems in implementation of the program. Accordingly, we believe it is important that all agencies conduct consultation prior to taking final agency action in regard to the provisions of this Act.
5. The Administration is also concerned that the scope of the waiver provisions in Section 6(c) of the bill is overly broad, and could have adverse consequences on the environment, civil rights, and other areas of important Federal policy. The provision provides for the waiver of any Federal statutory provisions, regulations, policies, or procedures that the applicant believes need to be waived in order to implement the project. A number of Departments and agencies within the Administration have raised serious concerns with the breadth of this section and its mandatory requirements.

The Administration looks forward to working with the Committee on this important legislation. We also note that other Departments and agencies are still reviewing this legislation and may submit views to the Committee. For example, the Department of Justice has raised a constitutional concern with section 15 of the bill; the Department of Treasury would like section 11(a) to make clear that funds remain in the General Treasury until they are disbursed to Tribal Organizations; and the Office of Management and

Budget is concerned Section 6 may conflict with PL 106-107, the Federal Financial Assistance Management Improvement Act of 1999.

This concludes my prepared testimony. I would be happy to answer any questions the Committee may have.